

24060

12 May 2025

Kiersten Fishburn
 Secretary
 Department of Planning, Housing and Infrastructure
 4 Parramatta Square, 12 Darcy Street,
 Parramatta NSW 2150

Attention: Megan Fu

Dear Ms Fishburn,

**Request for Industry Specific SEARs for a Tertiary Institution
 105 Miller Street, North Sydney**

This letter has been prepared for the purpose of requesting the Department of Planning, Housing and Infrastructure (DPHI) to issue Industry Specific Secretary’s Environmental Assessment Requirements (SEARs) for a State Significant Development Application (SSDA) for a tertiary institution at 105-153 Miller Street, North Sydney (the site).

Specifically, the proposed development is for the adaptive reuse of the existing commercial building including alterations and additions for the purpose of accommodating a tertiary institution (university) as defined in *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP).

The proposed development is categorised as an SSDA because it meets the estimated development cost (EDC) trigger of \$50 million for a tertiary institution, which is outlined under Schedule 1, Section 15 of the Planning Systems SEPP.

In accordance with the Rapid Assessment Framework adopted by DPHI in July 2021, the SSDA qualifies for Industry Specific SEARs because it is wholly permissible, is not a designated development and is not a concept development application.

To assist DPHI in issuing Industry Specific SEARs for the project, this letter provides an overview of the proposal, sets out the statutory context and identifies the key likely environmental and planning issues that will be considered and assessed as part of the detailed SSDA.

1.0 Key Project Information

Table 1 below provides a summary of the key project information.

Table 1 Key Project Information

Applicant	Investa
Owner	Investa Custodian (2) Pty Ltd (ACN 090 814 645) as a Trustee for 105 Miller Street North Sydney Trust (ABN 14 998 600 488)
Proposal	Adaptive reuse of the existing commercial building including alterations and additions for the purpose of accommodating a tertiary institution (university) on the site.

2.0 Background

2.1 Planning History

The site is subject to an extensive planning history, which is summarised below:

- The building was designed by Bates Smart & McCutcheon and built in 1957. The building is known as the MLC Building and is recognised as Australia's first large-scale commercial office development.
- In the 68 years since the building was completed, the condition and performance of the building has deteriorated, requiring a significant restoration project to meet the safety requirements and performance standards of current commercial buildings. The cost of the extent of restoration work required made the project unviable.
- As such, the owner lodged a development application (DA147/2020) on 7 July 2020 for the demolition of the existing heritage listed building and construction of a 27-storey commercial building including upgrade of existing ground plane and two basement levels. At the time of lodgement, the building was listed as an item of local heritage significance.
- During the assessment of DA147/2020, the MLC Building was listed on the State Heritage Register under Section 32(1) of the Heritage Act 1977 (Heritage Act) in June 2021. Due to this, DA147/2020 became an integrated development as it sought the demolition of a State Heritage Item and therefore, approval under Section 58 of the Heritage Act was required.
- On 27 August 2021, the proponent commenced separate Class 4 judicial review proceedings in the Land and Environment Court (LEC) challenging the decision to direct the listing of the MLC on the State Heritage Register. In July 2022, the Court ordered that the Heritage Council remove the listing of the MLC Building from the State Heritage Register, because the listing was considered invalid and contained administrative errors. The judgement is linked here.
- On 1 September 2021, the proponent lodged an appeal for DA147/2020 and undertook legal proceedings, with the hearings occurring in December 2022 and January 2023. In May 2023, the Court ordered the refusal of the DA due to the demolition of a building of heritage significance. The judgement is linked here.
- In December 2023, the MLC building was then relisted on the State Heritage Register.

2.2 Project Schemes

Since March 2022, the building has been vacant. This is because the building does not meet contemporary tenant demands and major upgrades are required before it can be reoccupied. The key challenges include:

- Significant ground floor flooding on the Miller Street frontage.
- The glazed east and west facades have deteriorated, resulting in leaks throughout the building.
- Asbestos has been detected in seals across the curtain wall façades.
- The terracotta tiling to the north and south façades and core are delaminating from their substrate and falling into the public domain along Brett Whiteley Place.
- Required upgrades of services and fire rating for the whole building.
- Required upgrades to the structure of the building to ensure that it is designed to the current requirements for seismic events.
- Upgrade of the thermal properties of the building to improve its energy efficiency.
- Upgrade areas of the building that are no longer compliant with current codes and standards.

Due to the abovementioned issues within the building, Investa has undertaken an extensive process to determine the most appropriate development outcome for the site that is both strategically aligned with the NSW Government objectives and in keeping with the feedback received from the long planning history outline above in **Section 2.1**.

The results of this exercise have found that there are two potential schemes for the site that could be explored. Considering the site is vacant and has been for a while now, Investa have made the decision to prepare and develop two schemes simultaneously, one for a commercial development and one for a tertiary institution (university), to ensure that the building can be reoccupied as soon as possible and positively contribute to the North Sydney CBD again.

The commercial scheme (DA387/24) has been lodged and is currently under assessment with Council.

3.0 The Site




 Address	105-153 Miller Street, North Sydney
 Legal Description	Lot 2 in DP 792740
 Site Area	6,640m ²
 Owner	Investa Custodian (2) Pty Ltd (ACN 090 814 645) as a Trustee for 105 Miller Street North Sydney Trust (ABN 14 998 600 488)



Figure 1 Location Plan
 Source: Spatial Viewer and Beam Planning

4.0 The Proposal

The proposal involves the adaptive reuse, including alterations and additions to the State heritage listed 105 Miller Street for the purposes of a tertiary institution (university) as defined in the Planning Systems SEPP. Specifically, the proposed works will include:

- Adaptive reuse and restoration of the Miller Street wing for a university;
- Demolition of the Denison Street wing, central core structure and pavilion on the northwestern corner of Miller Street;
- Construction of a new 22 storey Denison Street wing, including ground level commercial premises;
- Construction of a new central core structure, comprising the lift core, amenities and building services;
- Alterations to the ground level to deliver a significantly enhanced public domain;
- Construction of an almost double height ground floor retail and the delivery of a new public open space along Miller Street; and
- Basement carparking and loading dock accessed from a relocated entry off Denison Street.

To ensure the appropriate operation of the site, a Plan of Management will be prepared and will accompany the Environmental Impact Statement (**EIS**) of this SSDA.

5.0 Statutory Context

Table 2 below provides an overview of the key statutory requirements for the project.

Table 2 Summary of key statutory requirements

Matter	Comments
Power to Grant Consent	<p>The proposal is for the purpose of a tertiary institution within the definition of the Planning System SEPP, that has an EDC of more than \$50 million, and is therefore State Significant Development pursuant to Section 15(3) of Schedule 1 of the Planning Systems SEPP. The proposal also includes a small component of ground level commercial premises uses which are considered to be sufficiently related to the tertiary institution for the purposes of Section 2.6 of the Planning System SEPP for the following reasons:</p> <ul style="list-style-type: none"> • It is located within the same building as the tertiary institution. • It only accounts for approximately 400m², which represents 0.85% of the total GFA, therefore, emphasising that the university is the predominant use. • It will likely be used for the purposes of a retail premises, which will serve the staff and students of the proposed university. • It will complement the proposed use of the building and will contribute in activating the street frontage, which is directly aligned with North Sydney Council's vision for the CBD. <p>The Minister for Planning and Public Spaces (or the Minister's delegate) is the consent authority pursuant to Section 4.5(a) of the EP&A Act. The Independent Planning Commission is the consent authority if the proposal receives more than 50 unique public objections or is objected to by Council.</p>
Permissibility	<p>The proposal is located on land which is subject to the <i>North Sydney Local Environmental Plan 2013</i> (North Sydney LEP). The site is zoned E2 Commercial Core. A tertiary institution is not permitted with consent in the E2 zone, under the LEP.</p> <p>Notwithstanding this, Section 3.46(1) of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (TI SEPP) states that <i>development for the purpose of a university may be carried out by any person with development consent on land in a prescribed zone</i>. The E2 Commercial Core zone is identified as a prescribed zone under Section 3.44(1) of the TI SEPP and therefore, the proposal is permissible with consent under the TI SEPP.</p> <p>Commercial premises are permissible in the E2 zone.</p>
Other Approvals	<ul style="list-style-type: none"> • <i>Biodiversity Conservation Act 2016</i>: A waiver or a Biodiversity Development Assessment Report will be prepared as part of the SSDA. • <i>National Parks and Wildlife Act 1974</i>: An Aboriginal Cultural Heritage Assessment Report will be prepared as part of the SSDA. • <i>Heritage Act 1977</i>: The development involves carrying out of work on a State heritage listed item.
Pre-conditions to exercising the power to grant consent	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> • <i>State Environmental Planning Policy (Industry and Employment) 2021</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>North Sydney Local Environmental Plan 2013</i>
Mandatory matters for consideration	<ul style="list-style-type: none"> • <i>Environmental Planning and Assessment Act 1979</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> • <i>State Environmental Planning Policy (Industry and Employment) 2021</i> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> • <i>North Sydney Local Environmental Plan 2013</i>

6.0 Community Engagement

In accordance with the DPE *Undertaking Engagement Guidelines for State Significant Projects (2021)*, the applicant has undertaken extensive engagement with key stakeholders to inform the proposed development. Consultation was undertaken with the following government and industry stakeholders:

- Department of Planning, Housing and Infrastructure
- NSW Heritage Council
- NSW Government Architects
- Transport for NSW, including Roads Maritime Services (RMS) and Sydney Metro
- North Sydney Council
- Service providers, including Ausgrid, Jemena, Sydney Water
- Neighbouring landowners and leaseholders
- Residents within the Alexander Apartments at 77 Berry Street, and surrounding commercial landowners

7.0 Proposed Assessment of Impacts

Table 3 below identifies the matters requiring further assessment in the EIS and the proposed approach to assessing each of these matters.

Table 3 Assessment of impacts

Assessment Matter	Proposed Approach
Built Form & Urban Design	The proposal will be accompanied by an architecture and urban design report that supports the proposed built form and urban design outcomes, including but not limited to the siting and footprint of the new addition and its relationship with the Miller Street wing. The report along with the EIS will assess the impacts of the proposed form and urban structure proposed. The EIS will be supported by a Clause 4.6 request which justifies the breach to the height of building development standard.
Heritage	Considering the heritage significance of the site, the development will be designed accordingly to retain and respect the key heritage characteristics of the building. A Heritage Impact Statement will be prepared and accompany the EIS as the building undergoing works is State heritage listed. An Aboriginal Cultural Heritage Assessment Report (ACHAR) will be prepared and accompany the EIS to identify whether the site possesses or has the potential to possess Aboriginal heritage sites, places, objects and/ or values and provide conservation and mitigation measures.
Overshadowing	The EIS will be accompanied by detailed overshadowing analysis demonstrating that the proposal has no impact on the Greenwood Special Area, and assess the additional impact on Brett Whitley Place.
Flooding	A Flooding Report will be prepared and included with the EIS to assess the flood impacts of the proposed development, due to the history of flooding affecting the ground floor of the existing building.
Public Domain	Landscape and Public Domain Drawings and Design Report will be produced and accompany the EIS to assess to demonstrate how the proposal will deliver a high quality public domain.
Traffic and Parking	A Transport and Accessibility Impact Assessment will accompany the EIS, providing commentary on the relocated entry to the basement, an assessment of the traffic and parking impacts of the use, as well as a construction traffic management plan and the green travel plan (or equivalent).
Other impacts	The following impacts are matters that will be addressed within the EIS: <ul style="list-style-type: none"> • View Loss and Visual Impact • Wind Impact • Noise • Waste Management • Sustainability

Assessment Matter	Proposed Approach
	<ul style="list-style-type: none">• Building Code of Australia (BCA) and Fire Safety• Fire Safety/ Engineering• Accessibility• Social and Economic Impacts• Geotechnical• Construction Impacts

We trust that the information provided is sufficient to enable the Secretary to issue SEARs for the preparation of the Environmental Impact Statement (EIS). Should you have any questions about this matter, please do not hesitate to contact the undersigned.

Kind regards



Michael Rowe

Director

mrowe@beamplanning.com.au